

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHELTON BENOITE,

Plaintiff,

v.

J. DOERER, et al.,

Defendants.

Case No. 1:24-cv-01407-KES-HBK (PC)

FINDINGS AND RECOMMENDATION TO  
DISMISS CASE WITHOUT PREJUDICE FOR  
FAILURE TO COMPLY WITH COURT  
ORDER AND TO PROSECUTE

FOURTEEN DAY DEADLINE

Plaintiff, Shelton Benoite, is a federal prisoner proceeding pro se and *in forma pauperis* in this civil action. For the reasons set forth below, the undersigned recommends the district court dismiss this action without prejudice for Plaintiff's failure to comply with court orders and prosecute this action.

**BACKGROUND**

On November 18, 2024, Plaintiff filed his Complaint pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*<sup>1</sup> and the Federal Tort Claims Act ("FTCA"). Pursuant to 28 U.S.C. § 1915A, the undersigned screened the Complaint and determined it failed to state a federal claim. ("Screening Order" Doc. No. 14). To continue the prosecution of this action, the Court directed Plaintiff to either file a first amended complaint, file a notice to stand

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<sup>1</sup> 403 U.S. 388 (1971).

on his complaint as screened, or file a notice to voluntarily dismiss his claims no later than May 15, 2025. (*Id.* 8-9). The Court warned Plaintiff that, if he failed to timely comply with the order or seek an extension of time to comply, the undersigned would recommend the district court dismiss this action as a sanction and for failing to comply with the court order and prosecute this action. (*Id.* at 9, ¶ 2). On June 12, 2025, the Court sua sponte granted Plaintiff an extension of time until July 14, 2025 to comply with the Screening Order. (Doc. No. 19). Again, on July 21, 2025, the Court granted Plaintiff a further extension of time until August 11, 2025 to comply

As of the date of these Findings and Recommendation, Plaintiff has not responded to the Screening Order, despite being afforded extensions, and the deadline to comply has well expired.<sup>2</sup>

### APPLICABLE LAW AND ANALYSIS

#### A. Dismissal Under Local Rule 110 and Federal Rule 41(b)

This Court's Local Rules provides that the "[f]ailure of counsel or of a party to comply with . . . any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent power of the Court." E.D. Cal. L.R. 110. "District courts have inherent power to control their dockets" and, in exercising that power, may impose sanctions, including dismissal of an action. *Thompson v. Housing Auth., City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party's failure to prosecute an action, obey a court order, or comply with local rules. *See, e.g., Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with a court order to amend a complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130-31 (9th Cir. 1987) (dismissal for failure to comply with a court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply with local rules).

Additionally, Federal Rule of Civil Procedure 41(b) permits the court to involuntarily dismiss an action when a litigant fails to prosecute an action or fails to comply with other Rules or with a court order. *See* Fed. R. Civ. P. 41(b); *see Applied Underwriters v. Lichtenegger*, 913 F.3d 884, 889 (9th Cir. 2019) (citations omitted). In determining whether to dismiss an action

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<sup>2</sup> As of the date of the issuance of these Findings and Recommendation, more than four months has passed since the original May 15, 2025 deadline and more than 40 days has passed since the August 11, 2025 extended deadline.

1 under Rule 41(b), the Court must consider several factors: (1) the public's interest in expeditious  
2 resolution of litigation; (2) the Court's need to manage its docket; (3) the risk of prejudice to the  
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
4 availability of less drastic sanctions. *Henderson*, 779 F.2d at 1423; *Carey v. King*, 856 F.2d  
5 1439, 1440 (9th Cir. 1988).

6 B. Discussion

7 Considering Local Rule 110, the court appraised Plaintiff in its Screening Order  
8 that the Court would recommend dismissal as a sanction for failing to comply with a Court order.  
9 (See Doc. No. 14 at 9, ¶ 2). The Court further warned Plaintiff in granting each of the extensions  
10 of time that a recommendation of dismissal would issue if he did not respond to the Screening  
11 Order. (See Doc. No. 19 at 3, ¶ 3 and Doc. No. 23 at 2, ¶ 3). Thus, the Court may dismiss this  
12 case pursuant to Local Rule 110.

13 With regards to the factors under Rule 41, the undersigned concludes dismissal without  
14 prejudice is also warranted in this case. As to the first factor, the expeditious resolution of  
15 litigation is deemed to be in the public interest. *Yourish v. California Amplifier*, 191 F.3d 983,  
16 990-91 (9th Cir. 1999).

17 Turning to the second factor, this Court's need to efficiently manage its docket cannot be  
18 overstated. This Court has one of the heaviest caseloads in the nation, and due to the delay in  
19 filling judicial vacancies, which was further exacerbated by the COVID-19 pandemic, operated  
20 under a declared judicial emergency through May 2, 2021. See *In re Approval of the Judicial*  
21 *Emergency Declared in the Eastern District of California*, 956 F.3d 1175 (9th Cir. 2020). This  
22 Court's time is better spent on its other matters than needlessly consumed managing a case with a  
23 recalcitrant litigant. The Court cannot effectively manage its docket when a litigant ceases to  
24 litigate his/her case or respond to a court order. Thus, the Court finds that the second factor  
25 weighs in favor of dismissal.

26 Delays inevitably have the inherent risk that evidence will become stale, or witnesses'  
27 memories will fade or be unavailable and can prejudice a defendant, thereby satisfying the third  
28 factor. See *Sibron v. New York*, 392 U.S. 40, 57 (1968). Thus, the third factor—risk of prejudice

1 to defendant—weighs in favor of dismissal since a presumption of injury arises from the  
2 unreasonable delay in prosecuting an action. *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir.  
3 1976). Because Plaintiff’s inaction amounts to an unreasonable delay in prosecuting this action,  
4 the third factor weighs in favor of dismissal.

5 The fourth factor usually weighs against dismissal because public policy favors the  
6 disposition of cases on the merits. *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002).  
7 However, “this factor lends little support to a party whose responsibility it is to move a case  
8 toward disposition on the merits but whose conduct impedes progress in that direction,” which is  
9 the case here. *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217,  
10 1228 (9th Cir. 2006) (citation omitted). Indeed, “trial courts do not have time to waste on  
11 multiple failures by aspiring litigants to follow the rules and requirements of our courts.”  
12 *Pagtalunan*, 291 F.3d at 644 (Trott, J., concurring in affirmance of district court’s involuntary  
13 dismissal with prejudice of habeas petition where petitioner failed to timely respond to court  
14 order and noting “the weight of the docket-managing factor depends upon the size and load of the  
15 docket, and those in the best position to know what that is are our beleaguered trial judges.”).  
16 Further, the Court determined that the operative complaint did not state any viable claim so this  
17 factor does not weigh in Plaintiff’s favor.

18 Finally, the Court’s warning to a party that failure to obey the court’s order will result in  
19 dismissal satisfies the “considerations of the alternatives” requirement. *Ferdik*, 963 F.2d at 1262;  
20 *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. As noted *supra*, the Court’s  
21 Screening Order and the Orders granting Plaintiff a further extension of time, expressly warned  
22 Plaintiff that his failure to timely comply with the respective Orders would result in a  
23 recommendation of dismissal of this action. Thus, Plaintiff had adequate warnings that dismissal  
24 could result from his noncompliance. And the instant dismissal is a dismissal *without* prejudice,  
25 which is a lesser sanction than a dismissal with prejudice, thereby addressing the fifth factor.<sup>3</sup>

26 <sup>3</sup> In addition to failing to state a claim, it appears that Plaintiff may have initiated this action before he exhausted his  
27 administrative remedies. (See Docs. No. 5, 9, 12). The Court elected not to resolve the administrative exhaustion  
28 issue, noting it was an affirmative defense. (Doc. No. 12 at 2). A review of the Court’s files reveal that Plaintiff  
appears to have initiated a later new action raising similar claims at Case No. 1:25-cv-00959-SAB and may have  
elected to abandon this case in lieu of proceeding in his later filed action.

1 After considering the factors set forth *supra* and binding case law, the undersigned  
2 recommends dismissal, without prejudice, under Fed. R. Civ. P. 41 and Local Rule 110.

3 Accordingly, it is **RECOMMENDED**:

4 This action be DISMISSED without prejudice for Plaintiff's failure to prosecute this case  
5 and/or obey a court order.

6  
7 Dated: September 24, 2025

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE